



FIVE THINGS YOU SHOULD KNOW ABOUT H.R. 1406 – THE GOP BILL TO GUT OVERTIME & THE 40-HOUR WORKWEEK

1. HR. 1406 GIVES FLEXIBILITY TO EMPLOYERS, NOT EMPLOYEES

Employers are already allowed to provide employees with paid time off or unpaid time off under current law. What they can't do is fail to pay overtime wages for the overtime hours worked. This bill would force hourly workers to make the unnecessary choice between the pay they need and the flexibility they desire. Under H.R. 1406, employers can schedule employees for extended hours without having to pay overtime **and** without having to give an overworked employee any particular day off. It's flexibility for employers, not employees.

2. H.R. 1406 ONLY APPLIES TO WORKERS WHO WOULD OTHERWISE HAVE A RIGHT TO OVERTIME PAY

The Republican bill, H.R. 1406 only applies to hourly workers who may lose overtime pay under the Fair Labor Standards Act (FLSA). These low wage workers often lack bargaining power in the workplace and rely on overtime pay to make ends meet. Salaried workers receive no comp time benefits under this bill – presumably because they have no overtime to give up and employers may already legally work them excessive hours as needed without paying overtime.

3. H.R. 1406 WILL RESULT IN EXCESSIVE HOURS, LESS INCOME

H.R. 1406 removes the fundamental requirement that employers pay time-and-a-half cash wages for overtime work when it is worked. By making overtime cheaper for employers, employers will have less incentive to avoid scheduling excessive hours for an employee. As the employer gains this flexibility, employees will suffer from less predictable schedules. In the meantime, workers are loaning their overtime pay to their employer, interest-free, in the hopes of receiving paid time off in the future. Additionally, employees who rely upon overtime pay may lose it because an employer may give all extra hours only to employees who agree to comp time in lieu of overtime pay.

4. H.R. 1406 DOES NOT GUARANTEE WORKERS GET LEAVE WHEN THEY NEED IT

Under H.R. 1406, employees cannot use comp time at the time of their choosing. H.R. 1406 gives employers the right to deny any comp time requests that "unduly disrupts the employer's operations." Moreover, even if the requested leave would not cause undue disruption, employers would not have to allow time off on the exact days requested by the worker.

5. H.R. 1406 DOES NOT PROVIDE THE SAME PROTECTIONS TO PRIVATE SECTOR WORKERS AS PUBLIC SECTOR WORKERS

Congress permitted comp time in the public sector for the primary benefit of public sector employers, not employees, to mitigate the cost of compliance with the FLSA. Public sector workers, however, are less vulnerable to coercion, intimidation, and discrimination than are private sector workers. They enjoy civil service provisions that prohibit unfair treatment or termination if they refuse to take comp time. H.R. 1406 does not provide those protections. A worker fired or discriminated against for refusing to agree to comp time has no remedy under this bill.



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What H.R. 1406 proponents have had to say about actual workplace flexibility:

“America’s business owners are a resilient bunch, but let there be no doubt, [The Family and Medical Leave Act] will be the demise of some. And as that occurs, the light of freedom will grow dimmer.” – Speaker John Boehner (R-OH), 2/3/1993

“Paid sick leave would have immediate, destructive effect on the economy, employers, workers and job creation.” – Rep. Martha Roby (R-AL), author of H.R. 1406, 4/17/2013

The same interests promoting H.R. 1406 are opposing an increase in the minimum wage, standing against pay equity for women, and moving to shut down the National Labor Relations Board. H.R. 1406 is just the latest in a series of attacks on hard-won workers’ rights.

That’s why a wide array of women’s, labor, and other organizations oppose H.R. 1406, including:

9to5	International Brotherhood of Teamsters
A Better Balance	Legal Aid Society - Employment Law Center
American Association of University Women	Main Street Alliance
American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)	National Council of Jewish Women
American Federation of State, County and Municipal Employees (AFSCME)	National Domestic Workers Alliance
American Sustainable Business Council	National Employment Law Project
Center for Law and Social Policy (CLASP)	National Organization for Women
Center for Economic and Policy Research (CEPR)	National Partnership for Women and Families
Communications Workers of America	National Women's Law Center
Family Values at Work Consortium	North Carolina Justice Center
Interfaith Worker Justice	Restaurant Opportunities Centers United
	Service Employees International Union (SEIU)
	Wider Opportunities for Women

It’s time for real family-friendly workplace policies:

House Democrats have introduced a number of proposals to provide needed family-friendly leave policies without taking away workers’ overtime rights. Among those proposals is the ***Healthy Families Act (H.R. 1286)***, which allows workers to earn up to seven paid-sick days a year and use it when they need it. This bill is an actual solution for providing workers with the time they need to care for their loved ones and themselves, as opposed to H.R. 1406’s sleight of hand with workers’ overtime pay. The ***Healthy Families Act*** guarantees employees the ability to use that time off while respecting employers’ needs for stability in their business operations. And it does not strip anyone’s right to overtime pay.